

## REMARKS

This is a response to the final office action mailed Dec. 17, 2003 and is a request for continued examination along with a petition for a one month time extension. This request cancels all previous pending claims.

The examiner had rejected claim 55 under 35 U.S.C. 112 and that claim, along with the rest of the pending claims, under 35 U.S.C. 102(a) as having been anticipated by Walt et al. and under 35 U.S.C. 103(a) as unpatentable over Walt in view of Liu and Walt in view of Karras.

The applicant has added 20 new claims with this request.

Walt et al. teaches disposing a cell into the distal end of a fiber optic by etching longitudinally into the fiber so that the well replaces the fiber core. Since Walt's cell cannot be in the evanescent wave that only occurs in the cladding, it cannot anticipate the applicant's claims that claim that nanocells or cuvettes are excited by an evanescent wave. Walt combined with other references teach away from using an evanescent wave to excite molecules in cells. Therefore Walt et al. cannot

be combined with any of the references cited to make out obviousness.

The Feldstein reference cited in a previous rejection has already been distinguished. Feldstein teaches a metal reflecting layer on top of a slab, and placing test samples on the surface of a planar optical waveguide, NOT IN NANOWELLS in a dielectric cladding layer: ("The 2-dimensional surface of the waveguide lends itself to spatial patterning of multi-analyte array elements .... ", Feldstein, p. 140, next to last par.). The applicant's claims claim nanowells or cuvettes contained in a cladding layer. Feldstein does not teach placing test samples in a cladding layer or nanowells, but rather teaches away from this: ("A physically isolated patterning (PIP) method has been developed and used to generate an array of recognition elements, each approximately 1 mm sq, *on the planer waveguide* multi-analyte sensor." Feldstein, p. 141, Sec. 3.A., italics added). In addition, Feldstein teaches away from a dielectric cladding layer since he had to use a metal reflective layer at the surface of the guide to make it work (Feldstein, p. 144, 1<sup>st</sup> paragraph).

For the above reasons, the examiner will see that the new claims presented are allowable. The examiner is thus

respectfully requested to place the case into condition for allowance at his earliest convenience.

Respectfully Submitted

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This paper is being filed by United States First Class Mail addressed to Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313 with sufficient postage by Clifford Kraft on:

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